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Montana Workers' Compensation Insurance

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This pamphlet contains a summary of the basic provisions of the Workers' Compensation Act of Montana.

DIVISION OF WORKERS' COMPENSATION

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Prepared for Montana employees and employers by the Division of Workers' Compensation Department of Labor and Industry 5 South Last Chance Gulch Helena, Montana 59601

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PAM 1

Summary of the Workers' Compensation Law

COVERAGE REQUIREMENTS

What is Workers' Compensation Insurance?

Workers' compensation insurance is a state mandated insurance requirement that provides compensation and medical benefits to employees injured on the job. An employer who properly carries such insurance is protected from any legal action for damages for industrial injuries suffered by its employees. Severe penalties can be assessed against a noncomplying employer. Neither general liability nor health and accident insurance policies are substitutes for workers' compensation insurance.

Who Must be Covered?

The Workers' Compensation Act of Montana, with limited exceptions, requires all employers to cover their full-time, part-time, seasonal or occasional employees with workers' compensation insurance.

What are the Exceptions?

The following employments do not require coverage: (1) household and domestic employees; (2) employees who do not work in the usual course of the employer's business operation; (3) members of the employer's immediate family dwelling in the employer's household (applies to proprietorships and partnerships only); (4) the owner of a sole proprietorship or the working partners of a partnership other than certain independent contractors (however, the employees of such entities must be covered); (5) employees covered by federal compensation laws; (6) individuals performing services in return for aid or sustenance only (such as those working only for board and room), and (7) an official at a school amateur athletic event. Also the Montana Attorney General has ruled that Indian employers on Indian reservations are not required to carry workers' compensation insurance.

What about Corporate Officers & Independent Contractors?

Certain corporate officers & independent contractors (after 10/1/83), with the approval of the Division of Workers' Compensation, may elect, on forms provided by the Division, not to be covered.

How is Coverage Obtained?

Employees may obtain coverage through private insurance companies licensed to write workers' compensation insurance in Montana (Compensation Plan No. 2), or the State Compensation Insurance program (Compensation Plan No. 3). Certain large employers with extensive assets and employer groups which meet the requirements are allowed to self-insure (Compensation Plan No. 1).

Who Pays the Premiums?

Employers pay the insurance premiums based on a percentage of employees' salaries. The law prohibits employers from deducting or obtaining any part of the premium from employees.

What are the Reporting Requirements?

INJURED EMPLOYEES—Employees have two reporting requirements. They must notify the employer of an industrial accident within 60 days of its occurrence, and submit a claim for compensation form to the employer's insurer or the Division within 12 months. This should be done for all injuries in order to protect the employee's right to benefits in the event a seemingly minor injury develops into a major disability in the future.

EMPLOYERS—Employers must submit to their insurers or the Division, a form reporting every industrial injury resulting in medical treatment or loss of time within 6 days of notice of the injury. This report must be submitted even though the employer questions whether the reported accident is job-related. The form provides space for the employer to fully explain all aspects concerning the accident.

The necessary employer and employee reporting forms are provided by the Division.

What Benefits are Available?

MEDICAL BENEFITS—The insurer must furnish reasonable doctor, hospital, and medical services (including prescription drugs), and other treatment approved by the Division. This includes the replacement or repair of dentures, and prescription eyeglasses, contact lenses, and hearing aids damaged or lost as a result of an industrial injury. Under guidelines adopted by the Division, chiropractic services are also allowed.

The employee may select the physician of the employee's choice. An injured employee must receive permission from the insurer before changing physicians. The treating physician may obtain the consent of the insurer to refer the employee to a specialist.

COMPENSATION BENEFITS—Temporary Total Disability. Until the injured employee is physically restored to the extent the injuries will permit, the employee is entitled to weekly compensation of 66⅔% of the wages at the time of injury up to a maximum of the state's average weekly wage. The insurer pays these benefits from the date of injury if the wage loss continues for more than five working days. If the employee also receives social security disability benefits, the weekly compensation benefits are reduced up to one-half the social security payments.

Permanent Partial Disability. When an injured employee is physically restored to the extent possible and suffers a wage loss or loss of earning capacity, the employee is entitled to weekly compensation of 66⅔% of such loss up to one-half the state's average weekly wage. These weekly benefits are limited to a varying number of weeks depending on the part of the body injured, up to a maximum of 500 weeks.

Permanent Total Disability. If an injured employee has no reasonable prospect of finding regular employment, the employee is entitled to compensation of 66⅔% of the wages at the time of injury up to a maximum of the state's average weekly wage. These benefits are payable until the employee is able to retire, return to regular employment, or accepts regular social security retirement. If the employee receives social security disability payments, the compensation benefits are reduced up to one-half the social security payments.

Indemnity Benefits. If a permanent disability results from an industrial injury, and even though the injured employee can or has returned to work, the employee may be entitled to an additional benefit award. The insurer or the Division may be contacted regarding such benefits.

Death Benefits. If an injury causes death, the spouse and unmarried children are entitled to weekly compensation of 66⅔% of the wages at the time of the worker's industrial accident up to a maximum of the state's average weekly wage, or a minimum of one-half the state's average weekly wage. The spouse is eligible for weekly benefits for life unless he or she remarries, at which time a two year lump sum payment is made. Unmarried children receive benefits until age 18, or age 25 if attending an accredited school. If the employee leaves no spouse or unmarried children, then dependent parents, brothers, or sisters may be eligible for weekly benefits. If there are no beneficiaries, the insurer pays $3,000 to the surviving parents. The insurer also pays up to $1,400 for burial expense after social security and veterans administration payments have been deducted.

Rehabilitation Benefits. Injured workers who are unable to return to their former jobs or find suitable employment, may be eligible for rehabilitation services. These services include: physical rehabilitation, retraining and education when needed, and job placement. The injured worker may receive, in addition to workers' compensation benefits, (1) actual and necessary travel expenses from the individual's residence to the place of training, (2) living expenses while in training, up to $50 a week, and (3) expenses for tuition, books and necessary training equipment.

Subsequent Injury Fund Benefits. The Subsequent Injury Fund assists both the injured worker and future employers. A person with a permanent physical impairment which is a substantial obstacle to obtaining employment, whether resulting from job-related injuries or not, may be entitled to certification under the Fund. This certification helps an individual in obtaining a job because it limits the liability of the employer in the event the certified

worker is injured on the job. Applications for certification may be obtained from the Division.

Other Services—The Division employs highly trained experts in the field of occupational safety and accident prevention. Their services are available, including courtesy inspections at the employer's place of business, upon the employer's request.

The Department of Social and Rehabilitation Services employs a trained staff to assist injured workers with retraining and rehabilitation.

What are the Maximum Weekly Compensation Amounts?

Maximum weekly benefits are determined in accordance with the state's average weekly wage. As an example, for injuries occurring between July 1, 1985 and June 30, 1986 (FY 1986), the maximum benefit level for temporary total, permanent total, and death claims is $293 per week. For permanent partial disability, the maximum weekly amount is one-half the state's average weekly wage, or $146.50. Benefit levels are fixed as of the date of injury and are not adjusted through subsequent changes in benefit levels for the future fiscal years.

For More Information:

For further information about workers' compensation and related matters, contact the Division of Workers' Compensation, 5 South Last Chance Gulch, Helena, Montana 59601.

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